

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

DAVID KENNETH BAKER
2809 BUHACH ROAD, SPACE 57
ATWATER, CA 95301

Respondent.

Case No. 2008-254


OAH No. 2008060042

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on January 4, 2008.

IT IS SO ORDERED December 4, 2008.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

DAVID KENNETH BAKER,

Respondent.

Case No. 2008-254

OAH No. 2008060042

PROPOSED DECISION

This matter was heard before Administrative Law Judge Jonathan Lew, State of California, Office of Administrative Hearings, on September 4, 2008, in Fresno, California.

Brian Turner, Deputy Attorney General, appeared on behalf of complainant.

David Kenneth Baker appeared on his own behalf.

The case was submitted for decision on September 4, 2008.

FACTUAL FINDINGS

1. Ruth Ann Terry, M.P.H., R.N. (complainant) brought the Statement of Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.
2. On December 13, 2006, the Board received an Application for Licensure by Examination from David Kenneth Baker (respondent). The Board denied the application on November 15, 2007, and respondent requested a hearing on this denial.
3. Complainant contends that respondent's application should be denied on account of disciplinary action previously taken against him by the Board of Vocational Nursing and Psychiatric Technicians. It is undisputed that in the case entitled, *In the Matter of the Accusation Against: David Kenneth Baker, Vocational License No. VN 188257* (Case No. 6938), respondent was disciplined by the Board of Vocational Nursing and Psychiatric Technicians. Pursuant to a Stipulated Settlement and Disciplinary Order in that case,

respondent's license was placed on probation for one year, effective August 17, 2007, with terms and conditions. Respondent successfully completed probation and his vocational nurse license is now fully restored.

It was established that disciplinary action was taken against a health care professional license held by respondent.

4. In the Stipulated Settlement and Disciplinary Order, under a section entitled "culpability," respondent acknowledged the following:

Respondent admits he is subject to discipline for unprofessional conduct under Business and Professions Code section 2878(a), in that while on duty as a licensed vocational nurse at La Sierra Care Center in Merced, California between June 11, 2002, and June 13, 2002, Respondent violated section 2878.5(e). Respondent agrees that cause exists for discipline of his license No. VN 188257.

The Accusation underlying this Order alleged that respondent had charted the administration of different medications to patients in the Medication Administration Record for each patient, but failed to administer the medications to the patients per physicians' orders. Business and Professions Code section 2878.5, subdivision (e) provides that it is unprofessional conduct for a licensed vocational nurse to "[f]alsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified...."

5. The Board's application for licensure specifically asks whether disciplinary proceedings were taken against any "health-care related license" held by an applicant. Respondent responded in the affirmative to this question on his October 27, 2006 application. However, he checked the "NO" box when asked the same question on his March 7, 2007 Request For Reapply/Repeat Examination.¹ Respondent avers that he thought he was only required to disclose additional disciplinary action taken against him during the period between the two applications. No language in the application remotely suggests this. His explanation for not disclosing the disciplinary action taken against him is neither reasonable nor genuine.

¹ The question reads as follows: "HAVE YOU EVER HAD DISCIPLINARY PROCEEDINGS AGAINST ANY LICENSE AS A RN OR ANY HEALTH-CARE RELATED LICENSE INCLUDING REVOCATION, SUSPENSION, PROBATION, VOLUNTARY SURRENDER, OR ANY OTHER PROCEEDING IN ANY STATE OR COUNTRY? IF YES, PLEASE PROVIDE A DETAILED WRITTEN EXPLANATION, INCLUDING THE DATE AND STATE OR COUNTRY WHERE THE DISCIPLINE OCCURRED."

6. Respondent acknowledges no wrongdoing regarding the disciplinary action taken by the Board of Vocational Nursing and Psychiatric Technicians. He avers that he did administer medications to the patients and that he never engaged in falsification of patient records, or intentional withholding of patient medications. He largely denies the matters alleged in the Accusation, but concedes that he did enter into the stipulation admitting culpability. He suggests that he only entered into the stipulation because had the matter gone to hearing, it would have been his word against another's.

7. Respondent is employed by California Psychiatric Transitions, a 52-bed inpatient acute care psychiatric facility in Delhi, California. The facility treats individuals with bipolar and personality disorders, and those diagnosed as paranoid/schizophrenic. Efforts are made to stabilize them so that they might reenter society. He would like to continue working there as a registered nurse if he is so licensed.

Respondent received training as a medical technician when he was in the United States Air Force Reserve. He served one year active duty as a medical technician. He became a licensed vocational nurse in 1999, and worked in Turlock, California, for a year and a half. He then worked at Franciscan Convalescent Hospital in Merced, and then at La Sierra Health Care Center, a convalescent long term care hospital. He has worked at California Psychiatric Transitions since January 2002.

8. Respondent took the registered nurse board examination in February 2007, but did not pass. He has engaged in self-study and intends to take a nurse refresher course prior to re-examination. By this application he is seeking Board authorization to take the examination again.

9. Respondent has not demonstrated that he is substantially rehabilitated, notwithstanding his just having completed probation imposed by the Board of Vocational Nursing and Psychiatric Technicians. He continues to defend actions that resulted in discipline against his vocational nurse license, and he accepts little or no responsibility for wrongdoing. The failure to properly administer drugs per physicians' orders, and the falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to narcotics or dangerous drugs, are serious matters. This is even more so for someone in a registered nurse position. Registered nurses are held to a higher standard than licensed vocational nurses. It is also troubling that respondent failed to disclose this disciplinary action when specifically asked to do so on his most recent application to the Board.

The burden is on respondent to demonstrate that he is substantially rehabilitated. He has not done so here, and it would be contrary to the public interest to issue him a registered nurse license at this time.

REC'D - CIVIL RIGHTS

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LEGAL CONCLUSIONS

1. Business and Professions Code section 2736 provides that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code. Business and Professions Code section 480, subdivision (a)(3), provides that grounds for denial exists when an applicant has done "any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license."

2. Business and Professions Code section 2761, subdivision (a)(4) provides that the Board may take disciplinary action against a nurse applicant who has engaged in unprofessional conduct, which includes the following:

Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

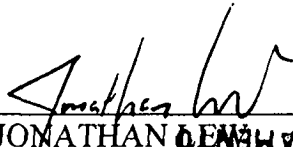
3. Cause exists for denial of respondent's application for licensure under Business and Professions Code sections 480, subdivision (a)(3), 2736, and 2761, subdivision (a)(4), by reason of the matters set forth in Findings 3 and 4.

4. The matters set forth in Findings 5 through 9 were considered in making the following Order. Respondent has not demonstrated that he is substantially rehabilitated, and it would be contrary to the public interest to issue him a registered nurse license at this time.

ORDER

The application of David Kenneth Baker for a registered nurse license is DENIED.

DATED: September 16, 2008


JONATHAN D. BAKER
Administrative Law Judge
Office of Administrative Hearings

2008 SEP 18 PM 1:00

RECEIVED

1 EDMUND G. BROWN JR., Attorney General
of the State of California
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7 Attorneys for Complainant

8
9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Statement of Issues Against:

Case No. 1008-254

13 **DAVID KENNETH BAKER**
2809 Buhack Road, Space 57
14 Atwater, California 95301

STATEMENT OF ISSUES

15 Applicant/Respondent.

16
17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Statement of Issues solely in her official capacity
20 as the Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
21 Affairs.

22 **Application History**

23 2. On or about December 13, 2006, the Board received an Application for
24 Licensure by Examination from David Kenneth Baker ("Respondent"). On or about
25 October 27, 2006, David Kenneth Baker certified under penalty of perjury to the truthfulness of
26 all statements, answers, and representations in the application. The Board denied the application
27 on November 15, 2007.

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4. Code section 480 states, in pertinent part:

(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(Discipline of Health Care Professional License)

6. Respondent's application is subject to denial under Code sections 2736, 480, subdivision (a)(3), and 2761, subdivision (a)(4), in that in the case entitled, *In the Matter of the Accusation Against: David Kenneth Baker, Vocational Nurse License No. VN 1881257*, Respondent was disciplined by the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs, State of California. Pursuant to the Stipulated Settlement and Disciplinary Order, Case No. 6938, attached hereto as Exhibit A, effective August 17, 2007, Respondent's license was placed on probation for one year with terms and conditions of probation. The circumstances of the disciplinary action are that between June 11, 2002, and June 13, 2002, while on duty as a licensed vocational nurse at La Sierra Care Center in Merced, California, Respondent falsified or made grossly incorrect, inconsistent, or unintelligible entries

1 in the patient and/or hospital records as set forth in Accusation No. 6938, dated September 15,
2 2006, attached hereto as Exhibit B.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 6 1. Denying the application of David Kenneth Baker for a registered nurse
7 license; and,
8 2. Taking such other and further action as deemed necessary and proper.

9
10 DATED: 3/6/08

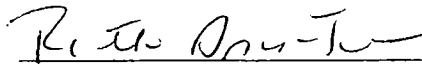
11
12 
13 RUTH ANN TERRY, M.P.H., R.N.
14 Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant
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EXHIBIT A

Stipulated Settlement and Disciplinary Order, Case No. 6938

BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

Case No. 6938

DAVID KENNETH BAKER

OAH No. 2006100629

Vocational Nurse License No.
VN 188257

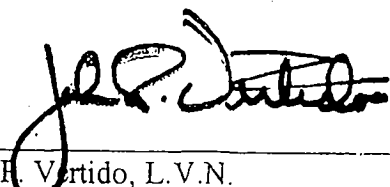
Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians as the Final Decision in the above entitled matter.

This Decision shall become effective on August 15, 2007.

IT IS SO ORDERED this 16TH day of July, 2007.



John H. Vertido, L.V.N.
President

1 EDMUND G. BROWN, JR., Attorney General
of the State of California
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9
10 **BEFORE THE**
11 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 6938

14 **DAVID KENNETH BAKER**

OAH No. 2006100629

15
16 Vocational Nurse License No. VN 188257

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 Respondent.
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20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
22 above-referenced proceedings that the following matters are true:

23 **PARTIES**

24 1. Complainant Teresa Bello-Jones, J.D., M.S.N., R.N. is the Executive
25 Officer, Board of Vocational Nursing and Psychiatric Technicians, the Department of Consumer
26 Affairs (Board). She brought this action solely in her official capacity and is represented in this
27 matter by Edmund G. Brown, Jr., Attorney General of the State of California, by Deputy
28 Attorney General Jessica M. Amgwerd.

2. David Kenneth Baker (Respondent) is represented by Phil Avila, of the Law Offices of Philip B. Avila, located at 920 Fifteenth Street, Modesto, CA 95354.

3. On May 14, 1999, the Board issued vocational nurse license no. VN 188257 to David Kenneth Baker. The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2007.

JURISDICTION

4. On September 15, 2006, Accusation No. 6938, was filed before the Board, and is currently pending against Respondent. The Accusation, together with all other statutorily required documents, was duly served on the Respondent on September 15, 2006, and Respondent filed a Notice of Defense contesting the Accusation. A copy of the Accusation is attached hereto as Exhibit A and is incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and understands the nature of the charges alleged in the Accusation. Respondent also has carefully read, and understands the effects of this Stipulation.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation, the right to be represented by counsel, at his own expense, the right to confront and cross-examine the witnesses against him, the right to present evidence and to testify on his own behalf and to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to reconsideration and court review of an adverse decision, and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits he is subject to discipline for unprofessional conduct under *Business and Professions Code* section 2878(a), in that while on duty as a licensed vocational nurse at La Sierra Care Center in Merced, California between June 11, 2002, and

1
2 June 13, 2002, Respondent violated section 2878.5(e). Respondent agrees that cause exists for
3 discipline of his license No. VN 188257.

4 9. Respondent agrees that his license is subject to discipline and he agrees to
5 be bound by the Board of Vocational Nursing and Psychiatric Technician's imposition of
6 discipline as set forth in the Disciplinary Order below.

7 **RESERVATION**

8 10. The admissions made by Respondent herein are only for the purposes of
9 this proceeding, or any other proceedings in which the Board of Vocational Nursing and
10 Psychiatric Technicians or other professional licensing agency is involved, and shall not be
11 admissible in any other criminal or civil proceeding.

12 **CONTINGENCY**

13 11. This stipulation shall be subject to approval by the Board of Vocational
14 Nursing and Psychiatric Technicians. Respondent understands and agrees that counsel for
15 Complainant and the staff of the Board of Vocational Nursing and Psychiatric Technicians may
16 communicate directly with the Board regarding this stipulation and settlement, without notice to
17 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
18 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
19 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
20 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for
21 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board
22 shall not be disqualified from further action by having considered this matter.

23 12. The parties agree that facsimile copies to this Stipulation, including
24 facsimile signatures thereto, shall have the same force and effect as original Stipulated
25 Settlement and Disciplinary Order and signatures.

26 13. In consideration of the foregoing admissions and stipulations, the parties
27 agree that the Board may, without further notice or formal proceeding, issue and enter the
28 following Order:

ORDER

IT IS HEREBY ORDERED that vocational nurse license No. VN 188257, issued to Respondent David Kenneth Baker, is hereby revoked. The revocation, however, is stayed, and Respondent is placed on probation for one year under the following terms and conditions:

1 **Obey All Laws.** Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law to the Board within five (5) days of occurrence. To ensure compliance with this term, respondent shall submit two (2) completed fingerprint cards and the applicable fingerprint processing fees to the Board within thirty (30) days of the effective date of the decision, unless the Board determines that fingerprint cards were already submitted by the Respondent as part of his licensure application process effective July 1, 1996. Respondent shall also submit a recent 2" x 2" photograph of himself/herself within thirty (30) days of the effective date of the decision.

2. **Compliance With Probation Program And Quarterly Report Requirements.** Respondent shall fully comply with terms and conditions of the probation established by the Board and shall cooperate with the representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Probation Program.

Respondent shall submit quarterly reports, under penalty of perjury, in a form required by the Board. The reports shall certify and document compliance with all the conditions of probation.

3. **Notification of Address And Telephone Number Change(s).** Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of his new address and any change in his work and/or home telephone numbers.

4. **Notification of Residency or Practice Outside of State.** Respondent shall notify the Board, in writing, within five (5) days, if he leaves California to reside or practice in another state. Respondent shall notify the Board, in writing, within five (5) days, upon his

1 return to California. The period of probation shall not run during the time Respondent is residing
2 or practicing outside California.

3 **5. Notification to Employer(s).** When currently employed or applying for
4 employment in any capacity in any health care profession, Respondent shall notify his employer
5 of the probationary status of Respondent's license. This notification to the Respondent's current
6 health care employer shall occur no later than the effective date of the Decision. The respondent
7 shall notify any prospective health care employer of his probationary status with the Board prior
8 to accepting such employment. This notification shall be by providing the employer or
9 prospective employer with a copy of the Board's Accusation and Disciplinary Decision.

10 The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse,
11 Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical
12 Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical
13 health care positions.

14 Respondent shall cause each health care employer to submit quarterly reports to
15 the Board. The reports shall be on a form provided by the Board, shall include a performance
16 evaluation and such other information as may be required by the Board.

17 Respondent shall notify the Board, in writing, within five (5) days of any change
18 in employment status. Respondent shall notify the Board, in writing, if he is terminated from any
19 nursing or health care related employment with a full explanation of the circumstances
20 surrounding the termination.

21 **6. Interviews/meetings With Board Representative(s).** Respondent,
22 during the period of probation, shall appear in person at interviews/meetings as directed by the
23 Board, or its designated representatives.

24 **7. Employment Requirements And Limitations.** During probation, the
25 Respondent shall work in his licensed capacity in the State of California. This practice shall
26 consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

27 While on probation, Respondent shall not work for a nurses' registry or in any
28 private duty position, a temporary nurse placement agency, as a faculty member in an accredited

1 or approved school of nursing, or as an instructor in a Board approved continuing education
2 course except as approved, in writing, by the Board. Respondent shall work only on a regularly
3 assigned, identified and predetermined work site(s) and shall not work in a float capacity except
4 as approved, in writing, by the Board.

5 8. **Supervision Requirements.** Respondent shall obtain prior approval from
6 the Board, before commencing any employment, regarding the level of supervision provided to
7 the respondent while employed as a licensed vocational nurse or psychiatric technician.

8 Respondent is presently employed at California Psychiatric Transition (CPT) as a
9 Charge Nurse. During probation, Respondent may continue working as a Charge Nurse for CPT.
10 However, should Respondent change employment during probation, Respondent shall not
11 function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or
12 directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or
13 unlicensed assistive personnel) or supervising psychiatric technician during the period of
14 probation except as approved, in writing, by the Board.

15 9. **Completion of Educational Course(s).** Respondent, at his own expense,
16 shall enroll and successfully complete a course(s) substantially related to the violation(s) no later
17 than the end of the first year of probation; or the Respondent shall be suspended from practice,
18 until he or she has enrolled in and has successfully completed the specified coursework.

19 The coursework shall be in addition to that required for license renewal. The
20 Board shall notify the Respondent of the course content and number of contact hours required.
21 Within thirty (30) days of the Board's written notification of assigned coursework, Respondent
22 shall submit a written plan to comply with this requirement. The Board shall approve such plan
23 prior to enrollment in any course of study.

24 Upon successful completion of the course, Respondent shall cause the instructor
25 to furnish proof to the Board within thirty (30) days of course completion.

26 10. **Maintenance of Valid License.** Respondent shall, at all times while on
27 probation, maintain an active current license with the Board, including any period during which
28 suspension or probation is tolled.

Should respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement respondent's license shall be subject to any and all terms of this probation not previously satisfied.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of Three Hundred and Fifty Dollars (\$350). Respondent shall pay these costs within ninety (90) days of the effective date of this decision. Failure to pay these costs shall be considered a violation of probation.

Except as provided above, the Board shall not renew or reinstate the license of any Respondent who has failed to pay all the costs as directed in a Decision.

12. **Violation of Probation.** If the Respondent violates the conditions of his probation, the Board after giving the Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of the Respondent's license. If during the period of probation, an accusation or petition to revoke has been filed against the Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, the Respondent's license will be fully restored.

ACCEPTANCE

I, David Kenneth Baker, have carefully read the above Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Vocational Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Vocational Nursing and Psychiatric Technician.

1 I further agree that a facsimile copy of this Stipulated Settlement and Disciplinary
2 Order including facsimile copies of signatures, may be used with the same force and effect as the
3 originals.

4 Dated: 5.17.07

5 
6 DAVID KENNETH BAKER
License No. VN 188257

7 Respondent

8
9 Dated: 5-17-07

LAW OFFICES OF PHILLIP AVILA

10
11 By: 

12 Phillip Avila
Attorneys for Respondents

13
14 **ENDORSEMENT**

15
16 The foregoing Stipulation is hereby respectfully submitted for consideration by
17 the Board of Vocational Nursing and Psychiatric Technician.

18 DATED: 5-18, 2007

19 EDMUND G. BROWN, JR., Attorney General
20 of the State of California

21
22 By: 

23 JESSICA M. AMGWERD
Deputy Attorney General

24 Attorneys for Complainant
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Exhibit A
Accusation No. 6938

FILED

SEP 15 2006

Board of Vocational Nursing
and Psychiatric Technicians

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 6938

DAVID KENNETH BAKER

ACCUSATION

Vocational Nurse License No. VN 188257

Respondent.

Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the
Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians.

License History

2. On or about May 14, 1999, the Board of Vocational Nursing and
Psychiatric Technicians issued Vocational Nurse License Number VN 188257 ("license") to
DAVID KENNETH BAKER ("Respondent"). The license will expire on June 30, 2007, unless
renewed.

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1 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
2 investigation and enforcement of the case.

3 9. DRUGS:

4 "DILANTIN," a brand name for Phenytoin, is a dangerous drug within the
5 meaning of Code section 4022, in that it requires a prescription under federal law.

6 "COUMADIN," a brand name for Warfarin, is a dangerous drug within the
7 meaning of Code section 4022, in that it requires a prescription under federal law.

8 "THEODUR," a brand name for Theophylline, is a dangerous drug within the
9 meaning of Code section 4022, in that it requires a prescription under federal law.

10 "LASIX," a brand name for Furosemide, is a dangerous drug within the meaning
11 of Code section 4022, in that it requires a prescription under federal law.

12 "KLOR-CON," a brand name for potassium, is a dangerous drug within the
13 meaning of Code section 4022, in that it requires a prescription under federal law.

14 "LIPITOR," a brand name for Atorvastatin calcium, is a dangerous drug within
15 the meaning of Code section 4022, in that it requires a prescription under federal law.

16 "DEPAKOTE," a brand name for Divalproex sodium, is a dangerous drug
17 within the meaning of Code section 4022, in that it requires a prescription under federal law.

18 FIRST CAUSE FOR DISCIPLINE

19 (Falsify Patient and/or Hospital Records)

20 10. Respondent is subject to disciplinary action under Code section 2878,
21 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2878.5,
22 subdivision (e), in that between June 11, 2002, and June 13, 2002, while on duty as a licensed
23 vocational nurse at La Sierra Care Center in Merced, California, Respondent falsified or made
24 grossly incorrect, inconsistent, or unintelligible entries in the patient and/or hospital records in
25 the following respects:

26 Patient L.B., Medical Record Number 3080A

27 a. On June 13, 2002, at 1700 hours, Respondent charted the administration of
28 two tablets of Dilantin, 2 mgs. of Coumadin, and 200 mgs. of Theodur in the Medication

1 Administration Record for this patient; however, Respondent failed to administer the
2 medications to this patient pursuant to the physician's orders.

3 Patient L.G., Medical Record Number 2078

4 b. On June 13, 2002, at 2000 hours, Respondent charted the administration of
5 20 mgs. of Lasix in the Medication Administration Record for this patient; however, Respondent
6 failed to administer the medication to this patient pursuant to the physician's orders.

7 Patient M.V., Medical Record Number 3104

8 c. On June 13, 2002, at 2000 hours, Respondent charted the administration
9 of two tablets of Klor Con in the Medication Administration Record for this patient; however,
10 Respondent failed to administer the medication to this patient pursuant to the physician's orders.

11 Patient I.T., Medical Record Number 1945

12 d. On June 13, 2002, at 2000 hours, Respondent charted the administration of
13 150 mgs. of Dilantin in the Medication Administration Record for this patient; however,
14 Respondent failed to administer the medication to this patient pursuant to the physician's orders.

15 Patient C.W., Medical Record Number 1847

16 e. On June 11, 12, and 13, 2002, at 1700 hours each day, Respondent charted
17 the administration of Lipitor and Depakote in the Medication Administration Record for this
18 patient; however, Respondent failed to administer the medications to this patient pursuant to the
19 physician's orders.

20 SECOND CAUSE OF ACTION

21 (Dishonesty)

22 11. Respondent is subject to disciplinary action under Code section 2878,
23 subdivision (j), on the grounds of unprofessional conduct, in that Respondent committed acts of
24 dishonesty which are substantially related to the duties and functions of a licensed vocational
25 nurse by falsely representing in various patients' Medication Administration Records that he
26 administered medications. In fact, Respondent had not administered those medications.

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1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
4 Technicians issue a decision:

5 1. Revoking or suspending Vocational Nurse License Number VN 188257
6 issued to DAVID KENNETH BAKER;

7 2. Ordering DAVID KENNETH BAKER to pay the Board of Vocational
8 Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of
9 this case, pursuant to Code section 125.3; and,

10 3. Taking such other and further action as deemed necessary and proper.
11

12 DATED: September 15, 2006
13

14 
15 TERESA BELLO-JONES, J.D., M.S.N., R.N.
16 Executive Officer
17 Board of Vocational Nursing and Psychiatric Technicians
18 State of California
19 Complainant
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